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Paper No. 21

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JUN 15 2005

In re Application of	:	
Axel Thomsen	:	DECISION ON PETITION
Application No. 09/695,703	:	
Filed: October 25, 2000	:	
Title: Indirect Techniques of Measuring I/F	:	
Noises	:	

This is a decision on the petition filed March 5, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn, or in the alternative, to revive the application under 37 C.F.R. § 1.137(b).

The petition to withdraw the holding of abandonment is **GRANTED**.

A Notice of Allowance and Fee(s) Due action was mailed on October 3, 2003, setting forth a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance and Fee(s) Due action was never received and attests to the fact that a search of the attorney's offices, the present application's file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due action was not received. The petition is accompanied by a copy of the docket sheet where the non-received Notice of Allowance and Fee(s) Due Office action would have been entered had it been received.

A review of the written record indicates that a non-final Office action was mailed on September 6, 2002 to the correspondence address provided in the declaration and Power of Attorney filed on April 2, 2001. A reply to the non-final Office action was received on January 2, 2003. A Final Office action was mailed March 31, 2003, again to the correspondence address provided in the declaration and Power of Attorney filed on April 2, 2001. A reply to the Final Office action was received on May 29, 2003 and a supplemental reply was also received September 25, 2003. A

Revocation of Powers of Attorney, a Power of Attorney and a change of address was submitted on March 25, 2002 but not entered into the file.

Pursuant to MPEP § 402.05: Revocation of the power of attorney becomes effective on the date that the revocation is RECEIVED in the Office (not on the date of ACCEPTANCE).

As stated in MPEP § 601.03: The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made.

Petitioner states that the current address of record is Winstead Sechrest & Minick P.C. (change of address submitted with the Revocation and Power of Attorney papers filed on March 25, 2002) where the Notice of Allowance and Fee(s) Due action would have been received.

The written record reveals that the correspondence address was not changed upon receipt of the change of address and that applicant continued to receive communications at the "old" correspondence address.

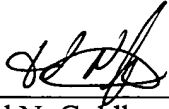
Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c),

Petitioner has provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due Office action was not received. Further, petitioner has provided a copy of the docket record where the non-received Notice of Allowance and Fee(s) Due Office action would have been received had it been received and docketed.

Since petitioner has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due. The period for response set therein will be reset to expire three months from the date these Notices are remailed. Extensions of this time are NOT available under 37 C.F.R. §1.136(a).

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



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